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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,309	08/20/2003	Anthony J. Baerlocher	0112300-1403	6024

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EXAMINER

WILLIAMS, ROSS A

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/644,309		BAERLOCHER, ANTHONY J.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Ross A. Williams		3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/3/05, 5/17/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 38 – 43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear as to what the limiting criteria is that causes the repeating of step (a). It is not clear to the Examiner as to what “the current repeat of the steps” means.

Claims 1, 14, 20, 26 and 38 recite the limitation “the previously selected division” in lines 15, 9, 8, 10, and 12 respectively for the above mentioned claims. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

**Claim 1 is rejected under 35 U.S.C. 102(a) as being anticipated by Randall (WO 03/009240).**

**Claim 1:** Randall discloses the displaying of a plurality of different symbols or colors to a player (i.e. the total amount of symbols from all the divisions). Wherein each

color or symbol represents a value or award type for the player (page 12:9 – 23). As can be seen in Figure 3A and 3B the stacks or divisions have multiple symbols or colors that are duplicated in other stacks or divisions. The symbols are sorted into a plurality of divisions. The player is enabled to select a symbol out of the divisions (page 13:3 – 10). After a player selects one symbol or a group of symbols the divisions will re-sort themselves by moving positions or “dropping down” in the division (page 13:11 – 19). Randall discloses that the stacks can be refilled with symbols or values by maintaining the number of elements in the column or division. Randall also discloses that after a player selects symbols the elements or symbols in the divisions may be reduced, thus leading to disparate numbers of symbols in the plurality of divisions (page 6:11 – 20). Thus the game will continue to repeat the above steps until there is one symbol left in the division wherein the player is able to select the symbol and that symbol is awarded to the player.

**Claim 2:** Randall discloses that the number of divisions that hold the selectable symbols may be only one or more than one (page 5:1 – 4). Figure 3A and 3B discloses the symbol divisions that possess multiple duplicate symbols. As one can see the first column in Figure 3A has four yellow symbols. The available number of divisions equals three. However, as mentioned above Randal anticipates the game machine being capable of displaying more than one division of symbols, thus the game machine can have more at least 7 or more divisions of symbols. Thus, the in as shown in the Figure 3A none of the columns would have more than 7 duplicated symbols.

**Claim 3:** Randall discloses the populating of the divisions, wherein each division holds the same amount of the symbols. As shown in Figure 3A, each division has 10 symbols.

**Claim 7:** Randall discloses an initial set of symbols that are displayed to a player wherein the initial set of symbols are divided into a plurality of linear divisions that comprise multiple symbols that are denoted by color (FIG 3A). Randall also discloses that the player is able to select these symbols and when selected the amount of symbols in the divisions are reduced (page 6:11 – 20). Thus over times the total amount of symbols in all divisions are less then the symbols in the initial set.

**Claim 8:** Randall discloses that the after a player selects a specific symbol in a division they are awarded or an award that corresponds the selected symbols is revealed or given to the player (page 6:21 – page 7:3).

**Claim 9:** Randall discloses a wraparound trail 17 that comprises multiple sections that are randomly selected by the game machine. Randall discloses a reel that randomly selects a number from the range of 1 – 12 to simulate a pair of dice. Based upon that random number selection the player is awarded prized along the wraparound trail (page 10:17 – page 11:5). Some of the awards or bonuses on the wraparound trail may be mystery prizes (Page 12:2 – 4). Randall further discloses that the symbols in the plurality of divisions may correspond to the same type of awards as those that are on the wraparound trail. Thus the symbols can be in the divisions can be random mystery prizes.

**Claim 14, 20, 26, 32, 44:** Randall discloses the displaying of a plurality of different symbols or colors to a player (i.e. the total amount of symbols from all the divisions). Wherein each color or symbol represents a value or award type for the player (page 12:9 – 23). As can be seen in Figure 3A and 3B the stacks or divisions have multiple symbols or colors that are duplicated in other stacks of divisions. The symbols are sorted into a plurality of divisions. The player is enabled to select a symbol out of the divisions (page 13:3 – 10). After a player selects one symbol or a group of symbols the divisions will re-sort themselves by moving positions or “dropping down” in the division (page 13:11 – 19). Randall discloses that the player is able to continuously select symbols in the divisions. Randall also discloses that the symbols may be sorted into the divisions without revealing them to the player. Randall states that some of the sorted symbols may not be displayed (page 5:5 – 8). Randall discloses that a division may or may not be repopulated with extra symbols to replace the player-selected symbols. If a player is selecting symbols of a last division, the steps of displaying the set of symbols, sorting the symbols by means of “dropping down”, and enabling the player to select the symbols will be repeated until there are no more symbols. Upon the player selecting the last symbol the player will receive an outcome.

**Claims 15, 21, 27, 33 and 45:** As one can see the set of symbols initially displayed possesses divisions comprising duplicated symbols. When after a player selects a specific symbol/element in a division, the divisions re-sort themselves by dropping down. Randall discloses that the divisions may be re-populated with more

symbols, which may be duplicates of symbols already contained in the set of symbols. Thus duplicating and resorting the symbols.

**Claims 12, 18, 24, 30, 36 and 48:** Randall discloses the use of an electronic game machine that is controlled by electronic circuitry (Fig 2). It is inherent that the game instructions or code are stored on a storage device in the game machine. It is well known that game machines utilize storage devices to store operation code or instructions on storage devices such as memory or hard drives.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Randall (WO 03/009240).**

**Claim 4:** Randall does lack disclosing that the sorting of the symbols includes not placing the same symbol twice in any of the divisions. However, Randall discloses that the divisions may be populated by different colors that represent different values, wherein the colored elements are selected by the player. Randall discloses in Figure 3A at least four different colors that can represent different values of awards. Randall does not disclose that the different values of awards can only be represented by four

different colors. It would be obvious to use many different colors as one can think of to represent the infinite possible numbers of different award values or types. Further Randall does not specify that the divisions must comprise duplicate symbols in each division. Thus it would be obvious to sort the division so that a division does not hold the same symbol twice.

It would be obvious to one of ordinary skill in the art to include an infinite number different colored symbols and that represent different award values or types. It would further be obvious to or place duplicate symbols in the same division. This would ensure that the player couldn't predict what type or value award they are selecting. The player would then not become easily bored with the selection game due to its constant unpredictability.

**Claims 13, 19, 25, 31, 37 and 49:** Randall discloses the use of symbols to represent the awards that are available to the player for selection. Randall discloses that colors represent awards and that indicia such as letters may be used to spell out the color of the element in the division representing a certain reward. Randall specifically states, "each element represents an amount (e.g. a common unit) of award value" (Randall page 6:21 – 22). It is well known in many game machines to use various forms of indicia, such as symbols, numerical symbols, or letter symbols of various types to represent awards given to a player.

It would be obvious in view of Randall to use numerical symbols such as numbers to represent awards to a player. This lets a player know immediately the value



of a prize that is associated with a selected symbol thus increasing the player enjoyment of the game.

**Claims 10, 11, 16, 17, 22, 23, 28, 29, 35, 36, 46 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Randall (WO 03/009240) as applied above and in view of Soltesz (US 5,830,069).**

**Claims 10, 11, 16, 17, 22, 23, 28, 29, 35, 36, 46 and 47:** Randall does not disclose a game that is operated through a network, LAN or an internet. However, Soltesz discloses a gaming environment wherein the gaming activities are provided via a data network, or WAN which is an internet (Soltesz 1:54 - 63).

It would be obvious to one of ordinary skill in the art to be motivated to modify Randall in view of Soltesz to provide a superior means to conduct mutli-site integrated gaming activities and to transmit coverage in real time with pictures and audio of gaming activities, with reduced hardware cost per site, and reduces operating cost per game. (Soltesz 1:25 - 29).

#### ***Allowable Subject Matter***

Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but *may* be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3713


**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ross A. Williams whose telephone number is (571) 272-5911. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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TC3700